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09/516,655	03/01/2000	Thomas C. Thompson		3209

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EXAMINER

GARCIA, ERNESTO

ART UNIT

PAPER NUMBER

3679

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/516,655

Applicant(s)

THOMPSON, THOMAS C.

Examiner

Ernesto Garcia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

The final rejection is withdrawn due to an improper and full detailed office action.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the permanent one-piece retrofit hurricane and earthquake connector and the double angled offset member (claim 1); the short and wide offset member and the attachment (claims 3 and 4); the top web having a generally vertical cut line in the approximate center (claim 7); the oblong bolt holes in Figure 5 (claim 13); and the metal member (claim 11) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The list of references in the disclosure does not list the connector or the double angled offset member. Applicant is reminded that the figures show a typhoon clip 1 and a cyclone clip 16. Furthermore, Figure 5 shows holes 36A that are not oblong bolt holes. The holes 36A are square.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the disclosure fails to disclose the original limitation of claim 1, "a one-piece retrofit hurricane and earthquake connector" and "double angled offset member".

### ***Claim Objections***

Claims 1, 3, 4, 8 and 11-14 are objected to because of the following informalities:

as to claim 1, the limitation "the roof" and "the wall" in line 2 should read --a roof-- and --a wall--, respectively;

as to claims 3 and 4, the limitation "short and wide offset member" should read --short-and-wide, offset member--;

as to claim 8, the limitation "as a means of attachment to the" in line 4 should be --for attaching to--;

as to claim 11, the limitation "the roof" and "the wall" in line 2 should be --a roof-- and --a wall--, respectively;

as to claim 12, the limitation --a-- should be inserted after "having" in line 1 and before "shape" in line 2, the limitation "as a means" in line 2 should be deleted, and the limitation "the" in line 3 should be --an--;

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as to claims 13, the limitation "the" in line 2 should be --a--, and the limitation "as a means" in line 3 should be deleted; and,

as to claim 14, the limitation "as a means" in line 3 and in line 5 should be deleted. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claims 1 and 11, the limitation "a permanent one-piece retrofit hurricane and earthquake connector" in line 1 does not appear in the disclosure. The original claims, respectively, disclose a one-piece retrofit hurricane and earthquake connector. The use of "permanent one-piece retrofit hurricane and earthquake connector" to describe the invention is not enabled by the disclosure.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-14 are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Regarding claim 1, the limitation "comprising a base member" is unclear whether the house or the connector comprises the base member. The limitation "connected by a double angled offset member" in line 4 is unclear whether the double angle offset member connects the roof and the wall, or the rafter tabs.

Regarding claim 2, the limitation "the outside wall" in line 4 is unclear whether the wall is a different wall than the wall recited in line 2 of claim 2. Furthermore, the limitation "an existing house" is unclear whether the existing house is different than the house recited in line 3 of claim 1.

Claim 3 and 4 recite the limitation "said short and wide offset member" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 5, the limitations "said acute angled bends" in line 1 and "the top and bottom" in line 2 lacks antecedent basis. Furthermore, the limitation "the top and bottom" in line 2 is unclear. The limitation "a completed house" in line 5 is unclear whether the completed house is the same as the house recited in line 3 of claim 1. Furthermore, the word "means" in line 3 is preceded by the word(s) "of offsetting said top web" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 6, the limitation "the rafter, outside wall, and underlying to plate" in line 4 lack antecedent basis. Furthermore, the limitation "a house" in line 5 is unclear whether the house is a different house other than the house recited in line 3 of claim 1.

Regarding claim 7, it is unclear whether applicant is claiming the connector formed (Fig. 1) or unformed (Figs. 4 or Fig. 5).

Regarding claim 8, the limitation "said cut lines" in line 1 lack antecedent basis in the claims. The limitation "having a plurality of nail holes" in line 3 is unclear what feature of the invention has the nail holes.

Regarding claim 9, the limitation "said blocking webs" in line 1 lack antecedent basis in the claims.

Regarding claim 9 and 10, applicant is urged to review these claims since they contain numerous ambiguities.

Regarding claim 11, the limitation "comprising a base member" is unclear whether the house or the connector comprises the base member. The limitation "connected by a double angled offset member" in line 4 is unclear whether the double angled offset member connects the roof and the wall together, or the rafter tabs together or the roof and the wall are connected. Furthermore, the limitation "a roof" in line 5 is the same roof as that recited in line 2 of claim 11. The limitation "above a roof" is unclear whether applicant is claiming the roof in combination with the connector. Moreover, the limitation "a roof" in line 7 is unclear whether the roof is the same or different the roof in line 2 or the roof in line 5.

Regarding claim 12, the limitation "a roof" in line 3 is unclear whether the roof is another roof different the roof recited in claim 11 in lines 2, 6, or 7.

Regarding claim 13, the limitation "the placement" in line 5 lacks antecedent basis. Furthermore, it is unclear whether applicant is positively claiming the roof rafter



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in line 3. Applicant is advice that if the roof rafter is not claimed reference to the roof rafter should be intended use.

Regarding claim 14, the limitation "a roof" in line 2 is unclear whether the roof is different than the roof recited in line 2, line 6, or line 7 of claim 11. The limitation "a house" in line 2 is unclear whether the house is different than the house in line 2 of claim 11. The limitation "said bolt" in line 4, and "said nut" in line 5 lack antecedent basis in the claims. Furthermore, the limitation "a house" in line 6 is similar as the house in line 3 of claim 14 or the house in line 3 of claim 11. Moreover, it is unclear whether the applicant is claiming the house in line 3. The limitation "having prior attachment to structural members" in line 2 is unclear. What exactly are prior attachment to structural members?

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1 and 3-7, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Thompson, 6,094,880 (see marked-up attachment).

Regarding claim 1, Thompson discloses in Figure 10 a one-piece retrofit hurricane and earthquake connector comprising a base member **20A** and an angled top web **10** with rafter tabs **17, 21**. The base member **20A** and the angled top web **10** are connected by a double angled offset member **19**.

Regarding claims 3, the offset member **19** has an attachment **A5** to the angled top web **10**.

Regarding claim 4, the offset member **19** has an attachment **A6** to the angled top web **10**.

Regarding claims 5 and 6, these claim are impossible to examine. Applicant is reminded that a recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus,

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which differentiates it from a prior art reference disclosing the structural limitations of the claim. In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Yanush, 477 F.2d 958, 177 USPQ 705 (CCPA 1973); In re Finsterwalder, 436 F.2d 1028, 168 USPQ 530 (CCPA 1971); In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963); Ex parte Masham, 2 USPQ2d 1647 (BdPatApp & Inter 1987).

Regarding claim 7, the angled top web **10** has a generally vertical cut line **A17** (see marked-up attachment 2).

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Holzlander, 5,606,837 (see marked-up attachment).

Regarding claim 1, Thompson discloses in Figure 10 a one-piece retrofit hurricane and earthquake connector comprising a base member **70** and an angled top web **A2** with rafter tabs **130,132**. The base member **70** and the angled top web **A2** is connected by a double angled offset member **48**.

Regarding claim 2, the base member **70** has a generally flat, generally long-horizontal rectangular shape and nail holes **124**.

***Response to Arguments***

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schmidt, 6,209,268, and Leavens, 4,965,980, show a similar connector.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 703-308-8606. The examiner can normally be reached from 8:30-5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on 703-308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

  
**Lynne H. Browne**  
**Supervisory Patent Examiner**  
**Technology Center 3600**

E.G.

June 17, 2002

Attachments: two marked-up pages of Thompson, 6,094,880; Figs. 10 and 11; and,  
one marked-up page of Holizlander, 5,606,837.